

Consultation Response Form

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Consultation Questions

Availability and submission of nomination papers online (Principal and Community Rules)

- 1. Do you agree that nomination papers should also be made available online for persons to download?**

Nomination papers are already available online for persons to download and print via the [Electoral Commission's website](#). It is also common for them to be made available on local authority websites or for the local authority to link to the Electoral Commission forms.

- 2. Do you agree that a facility should be provided to enable completed, signed, and attested nomination papers to be submitted online?**

We believe this process needs to be modernised to allow nomination papers to be submitted online. The requirement for hand delivery of nomination papers can create accessibility barriers and prevent potential candidates standing for election. In larger geographical and/or rural areas there may be a significant distance to travel to deliver nominations to the Returning Officer. This can result in significant challenges for potential candidates and could be considered discriminatory against candidates with disabilities.

Online submission could also remove significant administrative burdens if integrated into electoral management systems (EMS), alleviating the need for the inputting of information from nomination papers and reducing the proof-reading burden as well as reducing the risks of transcription errors that might be carried-forward to ballot papers. We are aware that EMS suppliers themselves are currently looking at ways to modernise and simplify the candidate nominations process based on current rules and can offer evidence to Welsh Government officials on practical modernisation and software functionality which may be achievable in the short to medium term.

We believe that online submission should be provided via a nomination portal/website which is provided, legislated for, and funded centrally by Welsh

Government and provides for the automatic integration of nominations into the electoral management system. The portal/website should contain measures that limit the ability for candidates, or their election agents, to enter incorrect information. For example, by utilising postcode look up facilities, registered party descriptions, emblems, and party names pre-loaded and available via drop down menus.

Welsh Government need to give thought to how those candidates, who are standing for a registered political party, can submit the certificate of authorisation from the political party or parties via an online portal/website. It would present administrative difficulties if the nomination paper was submitted electronically but the certificate of authorisation remained as a hard copy.

Consideration should be given by Welsh Government on what training would need to be provided to candidates, political parties, and electoral administrators on using such a portal/website and what IT support will be provided throughout the nomination period to assist with queries and technical difficulties with the system.

In the absence of an online nomination portal, we have several concerns regarding the submission of nomination papers as email attachments. We believe that submission of nominations via email should only be available where the Returning Officer permits this to be the case and specifies the details for email submission on the notice of election. Clarification is also needed on what constitutes an informal check when it is submitted via e-mail.

The submission of nomination papers as email attachments potentially presents a greater administrative burden on electoral services teams than the existing system and presents huge risk for the Returning Officer. This could potentially result in an increase of election petitions and erode confidence in the electoral system. For example:

- The need to provide a single email address for submission of nominations and clarity to candidates that nominations submitted to alternative council email addresses would not be considered as valid.
- The risk of mail filters blocking the transmission of emails resulting in the non-receipt of nomination papers by the deadline.
- The potential for human error in missing emails within an inbox when there is the potential for hundreds, if not over a thousand nominations to be submitted in a short period of time.
- The resource required to receive, check, and inform candidates in a timely manner of issues with their nomination received via email, particularly if no other contact details are provided while also providing for the delivery of nominations face-to-face.
- The continuation of transcribing details from nomination papers into the (EMS).
- The risk of email correspondence alerting candidates to errors with their nomination not reaching the candidate prior to the nomination deadline.
- Rejection of emails where candidates exceed file sizes resulting in non-receipt by the Returning Officer.

- Potential for IT issues during the nomination period leading to non-receipt of nomination papers.
- Potential for duplicate nominations.
- The resource requirement to print all nomination papers to comply with the inspection of nomination paper provision.

In addition, thought must be given to security issues and a potential increase in fraudulent nominations that could result from online submission particularly considering the removal of subscribers from the nomination paper.

3. How could the requirements for a candidate to sign their nomination paper and a witness to attest that signature be fulfilled if the nomination paper is submitted online?

It is a matter for Welsh Government to determine. Association of Electoral Administrators (AEA) members will administer the process according to the legislation in force.

We would suggest that Welsh Government liaise with the United Kingdom (UK) Government on the work that has been undertaken to date on the potential to provide for a UK wide online postal voting application service. The development work undertaken by UK Government related to how electors provide signatures on their postal vote applications and could be considered for candidate nominations.

Welsh Government could also consider whether a declaration of truth on submission of the nomination by a candidate and their witness (as well as by the election agent for the appointment of election agent form) is appropriate to replace the need for a signature when completing nominations online. The transition to individual electoral registration in 2014 which allowed electors to register to vote online, replaced the requirement to provide a signature with a declaration that the contents of the application are true. We suggest Welsh Government again liaise with UK Government on the lessons learnt through previous work they have undertaken.

Ultimately, any decision taken by Welsh Government needs to ensure that security issues and a potential increase in fraudulent nominations that could result from online submission are safeguarded against.

N.B, draft Rules 3(5), 4(2), 4(3) and 5(2) in Schedule 1 to the draft Principal rules includes italicised text in square brackets. The equivalent draft rules in the draft Communities Rules and in both Schedules 2 are also italicised. The use of italics is to highlight a new policy proposal which has emerged since the Welsh Government consulted on Electoral Reforms in local government in Wales in July 2017. We are consulting on this new proposal via the above consultation questions.

Nominations (Principals and Communities)

- 4. Do you agree with a candidate self-nominating, subject to the candidate signing the nomination paper and that signature being attested by a single witness, instead of (i) in the case of a principal council election, the nomination paper being subscribed by a proposer, a seconder and by eight other assenters; and (ii) in the case of a community council election, the nomination paper being subscribed by a proposer and a seconder?**

The changes mean that the candidate, at a principal council election or a community council election, would no longer submit a separate consent to nomination form.

If you disagree with these proposals, please explain why.

In our [Blueprint for a Modern Electoral Landscape](#) and previous post-election reports we have challenged the need for candidates to have nominations subscribed. Reviewing the requirement would make the nomination process simpler and more efficient for candidates, agents, Returning Officers, and electoral administrators. It would improve access to democracy, with a likely increase in the number of candidates standing at an election. It is already the case that all elections in Scotland (other than UK Parliamentary) do not have any subscriber requirements. For Senedd Cymru polls, one subscriber is required, which can be the candidate themselves.

However, in the absence of candidate deposits and subscribers', consideration needs to be given by Welsh Government to the likely impact that a potential increase in the number of candidates will have on administering the election. Following a reduction in the number of subscribers (from 10 to 2) by the UK Government for principal area elections for 6 May 2021 polls (and for subsequent by-elections up to 28 February 2022), the Chessington South by-election saw 19 candidates stand for election (13 for the same political party). Substantial increases such as this, need to be factored into such proposals, with Welsh Government ensuring that printers have sufficient capacity to deal with an increase in longer ballot papers. The potential for longer ballot papers may also prove challenging for areas where both contested principal area and community council elections are taking place with regards to the viability of producing a combined postal vote pack.

While the potential for an increase in the number of candidates is beneficial in making democracy more accessible, it does present additional administrative burdens for electoral administrators. They will be required to deal with potentially more nominations without subsequent changes being made to the election timetable to accommodate this. In our [Blueprint for a Modern Electoral Landscape](#), we called for a review of all election and electoral registration deadlines, including extending the election timetable to 30 working days. We would urge Welsh Government to consider reviewing the viability of a 25-working day timetable in light of the proposed changes they intend on making.

Consideration should also be given to the likelihood that removing the subscriber requirement may have on candidates standing who are not fully

committed. While there are clear benefits from making it easier for candidates to stand, this could also result in candidates standing who upon election decide they do not wish to fulfil the role resulting in several by-elections. The cost and administrative burden of running several by-elections shortly after ordinary elections would be a potential negative consequence of such a change.

In addition, Welsh Government must give thought to security issues and a potential increase in fraudulent nominations that could result from the removal of subscribers from a nomination paper, particularly when nominations are submitted online.

In relation to the provision of a witness, there is no requirement for the witness to provide their address or elector number. However, there is a requirement for the witness to be a registered local government elector for the electoral ward the candidate wishes to stand in. We question whether there should be a requirement to provide their address and/or elector number for the Returning Officer to be satisfied of this requirement or whether it is intended for the Returning Officer to accept on face value that the person satisfies the criteria. If the Returning Officer is to accept this on face value, guidance should be provided to ensure complete clarity in this respect. Clarification should also be provided in relation to Section 6 of the nomination form regarding what is required to be inserted after 'Signed in the presence of a witness:'.

The legislation is also silent on whether there are any limitations to how many nominations papers a witness can attest. In the absence of any restriction, it appears a witness could attest every nomination submitted for their respective electoral ward or community area. Within the current system, a subscriber may not subscribe more nominations than there are vacancies in the ward. We believe clarification is needed to either place a restriction on the number of nominations a witness can attest for an election or confirm that there are no restrictions on how many they can attest.

5. Do you agree that the additional options for candidates in providing commonly used forenames and surnames (including these being used in a different order) are sufficient to cover all cases in which it is reasonable to allow candidates to provide commonly used names?

In our [Blueprint for a Modern Electoral Landscape](#), we stated that the use of any part of a candidate's forename and/or middle name(s) should, as we believe Parliament intended, be permitted as a commonly used name.

We strongly support this principle and hope Welsh Government lobby UK Government to legislate for the outlined additional options for candidates in providing commonly used forenames and surnames for UK Parliamentary and Police and Crime Commissioner Elections.

We would also hope that Welsh Government intend on making similar provisions prior to the next Senedd elections scheduled to take place in May 2026 to provide a consistent approach for all devolved elections.

Descriptions (Principals and Communities)

- 6. Do you agree with the inclusion of the new options for candidates in terms of descriptions they may include relating to a registered political party, including the addition of descriptors “Wales”, “Welsh”, “Cymru” or “Cymreig” where these are not already part of a registered description for the party in question? Do you think there are other options that should be covered?**

We do not disagree with the inclusion of the new options for candidates in terms of descriptions, however we do question whether it provides any additional options for candidates. Most parties that stood in the Senedd Cymru Elections on 6 May 2021 had registered descriptions that included Wales, Welsh, Cymru or Cymreig. Therefore, for many candidates standing for registered political parties the inclusion of new options is irrelevant.

We question whether this addition is required given that registered political parties can register up to 12 descriptions bi-lingually with the Electoral Commission. If a political party wished to have a description that related directly to Wales in bi-lingual form, there is sufficient opportunity for them to do this and is clearly what the majority opt to do. In addition, it appears to provide more opportunities for registered political parties that do not have Wales, Welsh, Cymru or Cymreig as part of their registered party name. For example, for Plaid Cymru – The Party of Wales this inclusion has no relevance given the name of party prevents the use of additional descriptors. However, for another political party such as the Labour Party, it offers the opportunity to not include a specific Wales related description as one of their twelve registered descriptions but to still have a Wales specific descriptor added to one of their registered descriptions, effectively providing it with more description options than other parties.

We believe that comprehensive guidance should be provided for Returning Officers to make clear what is acceptable with specific examples to minimise the risk on Returning Officers accepting nominations with invalid descriptions.

We also want to ensure that the rules provide for candidates that are standing as independent candidates to continue to have the opportunity to use either ‘Independent’, ‘Annibynnol’ or ‘Independent / Annibynnol’ as options. Rule 6 (2) (b) presently states that only the word ‘Independent’ can be used.

The rules about descriptions which may be used by candidates at community elections are being brought in line with those at a principal council election. Effectively, this means that if a candidate at a community council election is not standing for a registered political party, the only options available to them are to describe themselves as “independent” or to have no description whatsoever. Do you agree with this change?

We support the change being made which brings community elections in line with those at a principal council elections.

However, we also want to ensure that the rules provide for candidates that are standing as independent candidates to continue to have the opportunity to use either ‘Independent’, ‘Annibynnol’ or ‘Independent / Annibynnol’ as options. Rule 6 (2) (b) presently states that only the word ‘Independent’ can be used.

Statements of party membership (Principals and Communities)

- 7. Rule 5 introduces a new requirement for candidates to submit a statement of party membership and makes it an offence to knowingly withhold information about party membership or include something which is incorrect. Does this address the concern about candidates not declaring their membership of a registered political party?**

We question what the purpose and principle of Rule 5 really is? Is it to inform electors that the candidate currently or previously was a member of another political party or is it to allow other candidates and their parties to ensure that a correct declaration has been made during the inspection of nominations?

If the intention of the rule is to inform electors of a candidate's existing or previous membership to a party, we do not believe the inclusion on the statement as to persons nominated is likely to be viewed by most electors limiting its impact. There is also the requirement for this information to be included with the candidate's personal statement which may be more visible to electors than a notice.

We believe that the relevant period, which is the period of 12 months ending with the day on which the candidate's nomination paper is delivered, does not provide for a fair and consistent approach for all candidates. We believe that the relevant period should instead be the period of 12 months ending with the last day the notice of election can be published for the election, so it is consistent for all candidates.

The draft rules provide little indication of how much detail is required on the statement as to persons nominated in relation to the statement of party membership. For example, is the Returning Officer required to provide the name of the party and the time period that the candidate is or was a member of that political party or do they just declare via yes or no whether they have been a member of any registered political party during the relevant period?

If there is a requirement to provide the name of all other political parties a candidate has previously belonged to on the statement as to persons nominated, we have concerns this may potentially be confusing and misleading for electors. The inclusion of additional party names against a candidate's entry on the notice may be mistaken as showing that the candidate is standing for that party.

We would stress that the inclusion of statement of party membership as part of a nomination needs to be properly integrated into the (EMS). There needs to be the appropriate fields when entering the nomination into the (EMS) that capture the required information. This captured information needs to automatically populate the statement as to persons nominated to limit the administrative burden on electoral administrators.

Rule 11 (3), the grounds on which the Returning Officer can find a nomination paper invalid have been expanded to include where the statement of party

membership included in the nomination paper does not comply with Rule 8. We question why this has specifically been included as grounds to invalidate a nomination. A Returning Officer is required to accept a nomination paper on face value. There is case law which makes clear that Returning Officers must not undertake any investigation or research into any candidate and that their duty does not go beyond seeing that a nomination form is correct on its face. There is nothing within Rule 8 that indicates that a Returning Officer should undertake any investigation into the validity of the statement of party membership. Therefore, we question how it is possible to invalidate a nomination when the Returning Officer is required to accept the information provided on face value.

Home Address forms (Principals and Communities)

8. Do you agree with the inclusion of a home address form, allowing candidates to request that their home address is not made public, as is already the case for other elections, including Senedd elections?

We agree with the inclusion of a home address form for all principal area and community elections, allowing candidates to request that their home address is not made public, as is already the case for all other elections.

However, unlike for Senedd elections, there remains an occasion whereby a candidate's home address is disclosed, when a candidate withholding their home address acts as their own election agent and does not provide an office address. In this case their home address must be published on the notice of election agents and in the imprint on election literature. Changes should be made so that a candidate acting as their own election agent is still able to withhold their home address from all electoral communications, with a requirement for a correspondence address to be provided instead.

For Senedd elections, there is already the provision for a candidate acting as their own election agent to withhold their home address from all electoral communications. However, we question whether it is appropriate that on the notice of election agents, the home address can be replaced by the relevant area. The omission of a correspondence address for Senedd elections seems to deviate from the principle of an election agent having an office address, which is to enable any claim, notice, legal process, or other document to be served to them. We believe this should be reviewed for Senedd elections and not replicated for Local Government elections, instead there should be the requirement for a correspondence address to be provided to prevent the disclosure of a home address.

In relation to the home address form, in our [Blueprint for a Modern Electoral Landscape](#), we stated legislative changes are required so that the local authority's proper officer can be supplied with a candidate's home address. Access to home address forms is strictly controlled to maintain confidentiality. Legislation requires the RO to "... give notice of the name of each [elected] candidate to the proper officer of the council ..." following the declaration of the result. This is also the case in Rule 21 (3) of the draft rules (Rule 20 (3) for Community). There is no provision to provide the proper officer with the candidate's home address or to permit the proper officer to inspect the home address forms. We believe Welsh Government should make provision to rectify the administrative oversight introduced by the home address form and permit the proper officer to be supplied with the elected candidate's home address to enable them to undertake their statutory duties.

Personal Statements (Principals only)

9. Do you agree with the options and requirements about candidate's personal statements? Should anything else be included?

In our 2017 response to the consultation on Senedd electoral reform, we stated that the proposal of each candidate providing a personal statement for inclusion on a website provided by the principal authority to whom they are seeking election should only be made a permanent change once an evaluation had been undertaken on the impact of using personal statements has been undertaken in relation to Police and Crime Commissioner elections and Mayoral elections in England. We also stated it should be piloted followed by a full evaluation. Given that neither an evaluation of the effectiveness of statements for other elections has been undertaken and in the absence of a pilot related to personal statements, we have several concerns with the options and requirements presented in the draft rules.

We acknowledge that there are benefits to allowing local candidates to publish a personal statement, with lack of information available on each candidate or political party presented as one of the reasons for voter apathy by members of the public. However, we do not believe it is the role of the Returning Officer to address the lack of publicly available information on candidates or political parties but that of the candidates and parties to address themselves. This can be achieved through effective campaigning and the utilisation of third-party independent community resources such as those already available and provided by community interest companies such as Democracy Club (e.g., whocanivotefor.co.uk).

As we have previously stated, we consider that the arrangements currently in place with UK Government for Police and Crime Commissioner Elections should be replicated so that any such website is managed and maintained by Welsh Government directly.

The proposed requirements also present a paradox for local authorities in relation to the pre-election period. The pre-election restrictions are governed by Section 2 of the Local Government Act 1986, as amended, and detailed in the Code of Practice on Local Government Publicity. Essentially councils should 'not publish any material which, in whole or in part, appears to be designed to affect public support for a political party'. The expectation that the Returning Officer would be required to use the principal council's website to publish personal statements directly contradict the pre-election restrictions on the council.

In the explanatory memorandum that accompanies the draft rules, it states that a candidate must draft and supply the principal council with the personal statement. However, nominations are required to be submitted to the Returning Officer. The Returning Officer's duties and responsibilities become personal to that officer and in undertaking them, they are independent of the local authority. Clarification is needed on whether the personal statement is required to be submitted to the Returning Officer or the principal council as they are two

separate entities. Furthermore, it states that the principal council is required to publish the personal statement on the local authority website. Therefore, is the requirement to publish personal statements the responsibility of the Returning Officer or local authority itself?

The rules state that a personal statement cannot include anything obscene or offensive or mislead or confuse voters as to the electoral system in use at the election or the effect of giving their vote. However, the rules are silent on what a Returning Officer is required to do when, in their subjective opinion, the personal statement does not comply. In accordance with Rule 11, there appears to be no grounds to invalidate the nomination for failure to comply with the requirements of Rule 10. For Police and Crime Commissioner elections, Para 7 (3), Schedule 8 of The Police and Crime Commissioner Elections Order 2012 specifies that where an election address does not comply, a Police Area Returning Officer must return it to the candidate's election agent, specifying each respect in which the officer considers it does not comply. The election address can then be resubmitted prior to the deadline. Further clarity is needed on what the expectation is on the Returning Officer – are they to reject the statement for being non-compliant and subsequently not publish a personal statement for the candidate or as is the case for Police and Crime Commissioner elections is there opportunity for the statement to be returned and resubmitted prior to the deadline? If it is the intention of the Welsh Government to allow for the statement to be returned with the Returning Officer, specifying where it does not comply, the significant additional administrative burden this will present to the Returning Officer and their team needs to be very carefully considered. While the provision is in place for Police and Crime Commissioner elections, it needs to be factored in that there may only be a few candidates submitting election addresses for such an election. In contrast a Returning Officer could be dealing with hundreds of candidates' personal statements.

If this provision remains, additional guidance and examples are required to assist a Returning Officer in making an informed decision as to what constitutes a non-compliant personal statement. The refusal to accept a statement can potentially be challenged as part of an election petition, therefore clear guidance is needed on what specific criteria invalidates the statement from being published.

As stated in our 2017 response to the consultation on electoral reform, the requirement for Returning Officers to take responsibility for reviewing and publishing what could be several hundred personal statements (in both Welsh and English) would place a significant extra burden on electoral service staff during the candidate nomination processing period where huge pressures are already evident.

The requirements of the draft rules do not offer any measures that assist electoral administrators in dealing with this additional legislative burden. Unlike for Police and Crime Commissioner elections, no standardised form has been prescribed to allow for a consistent approach on the completion of personal statements which incorporates all the relevant requirements specified in Rule 10. There appears to be the option for the statements to be either electronic or

hard copy, with a word limit of no more than 180 words and in any language. In contrast, Para 4 (4), Schedule 8 of The Police and Crime Commissioner Elections Order 2012 states that the election address for Police and Crime Commissioner elections must be submitted in electronic form unless the Police Area Returning Officer is satisfied that there is good reason for it being submitted in hard copy form. If the statement can be in hard copy form, this clearly adds to the administrative burden of transcribing the statement (particularly if handwritten) to be published online and the need to physically check the number of words used. We have concerns that handwritten statements may at times be difficult to accurately transcribe and could lead to challenges if perceived errors are present in the published statement. We believe that a prescribed form should be used for personal statements to aid the process for both candidates and Returning Officers and that there should be a requirement to provide the statement in electronic form only unless the Returning Officer is satisfied that there is good reason for it being submitted in hard copy form.

The ability for the candidate to submit a recent photo of themselves to be included with the candidate's personal statement also adds to the burden for electoral services staff. In the absence of a portal or website for the submission of nominations, the provision to provide a photograph would result in individual files being saved and stored by the electoral services team. This would then require them to match the photograph to the corresponding personal statement. This adds additional risk through human error and adds significant administrative burden at a crucial point in the election process. Furthermore, if a hard copy photo is provided by the candidate, this would require the image to be scanned by the electoral services team. We believe that should this provision remain; the rules should state that a photo should only be provided in electronic form unless the Returning Officer is satisfied that there is a good reason for it being submitted in hard copy form

There are currently no prescribed conditions related to the requirements of the photo a candidate can provide. We believe that additional detail is need within the rules (should this provision remain) to specify that the photograph must be a passport style photo, with no other objects or people, taken against a plain light-coloured background and be in clear contrast to the background. As stated above we believe the photo should be provided in electronic form and the rules should make clear that the quality of the photo should be unaltered by computer software, in a recognised file type, at least 600 pixels wide and 750 pixels tall and at least 50kb and no more than 10 MB.

The provision for the candidate to provide the statement in any language is also problematic and an additional administrative burden. If a statement is provided in a language other than English or Welsh, it raises questions on how the Returning Officer is meant to determine if the statement meets the requirements. We believe that as is the case for Police and Crime Commissioner elections, the statement should only be provided in English and/or Welsh to assist the Returning Officer in determining the validity of statements.

Finally, we do not believe the current deadline to publish the personal statements by 4pm on the eighteenth day prior to polling day is achievable for electoral services teams. Following the close of nominations at 4pm on nineteenth day prior to polling day, electoral services teams are currently required to produce, proof, and publish statement as to persons nominated and notice of uncontested election for all principal area and community council elections by 4pm the following day. In some cases, this could result in hundreds of individual notices being produced and proofed to ensure the correct details are present for every candidate that has submitted a nomination. In addition to this, they are also required to produce and proof ballot paper proofs for all contested elections to ensure that ballot papers can be printed and delivered for postal votes within the tight time constraints of the election timetable. This in its current form is at times impracticable for electoral services teams to achieve. To add in the requirement to publish personal statements within the same timeframe is quite frankly an impossible task. We believe the rules should state that personal statements should be published by the Returning Officer as soon as practicable and no later than eleventh day prior to polling day. This would ensure personal statements are available for most postal voters and all other electors prior to them casting their vote. Alternatively, if there is an expectation to publish personal statements at this point, we believe Welsh Government should consider extending the timetable to 30 days as suggested in our [Blueprint for a Modern Electoral Landscape](#).

***Nomination in more than one electoral ward and more than one electoral area
(Principals and Communities)***

The existing rules allow a candidate at a principal council election to be nominated for more than one electoral ward at the same principal council election and for a candidate at a community council election to be nominated for more than one electoral area at the same community council election. In both cases the candidate must withdraw from all but one electoral ward or area before the close of nominations.

10. Do you agree that we should keep the existing arrangement that a candidate may be nominated in more than one electoral ward (principal council) or electoral area (community council) but must withdraw from all but one ward or area (respectively) before the close of nominations?

We agree that the existing arrangement that a candidate may be nominated in more than one electoral ward or electoral area but must withdraw from all but one ward or area before the close of nominations should remain in place.

Alternatively, should the rules require that a candidate must submit a nomination for no more than one electoral ward and no more than one electoral area at the same election?

No. We consider that the existing arrangement that a candidate may be nominated in more than one electoral ward or electoral area but must withdraw from all but one ward or area before the close of nominations should remain in place.

Inspection of nomination forms and home address forms (Principals and Communities)

11. If nomination forms and home address forms are submitted electronically, how should these be made available for inspection in accordance with the respective rules?

It is a matter for Welsh Government to determine. AEA members will administer the process according to the legislation in force.

However, consideration should be given to ensuring that no additional administrative burden is introduced in providing for the inspection of forms submitted electronically. For example, if there is an expectation on electoral services teams to print off each individual nomination and home address form one at a time, this will inevitably add to the administrative burden on election teams.

If a portal/website was developed for the submission of nomination papers and home address forms, it would be beneficial for a reporting function to be introduced that would allow for individual reports containing the nomination details required for inspection for each electoral ward and area to be produced. This would help limit the administrative burden to some degree on electoral services teams.

Regarding home address forms, there are no provisions for a candidate, election agent or person appointed to inspect where the candidate is acting as their own agent to take copies or extracts from the form. It would seem viable for the Returning Officer to provide for the inspection of home address forms on tablets or computers and comply with the respective rules.

Use of school rooms and public rooms (Principals and Communities)

12. Are there any schools in Wales to which grants are made out of money provided by the UK Parliament? (see Rule 27(1)(b) in the Principal Rules)

This question does not fall within the AEA's professional scope. We therefore feel it inappropriate to comment as other consultees with greater experience in this area will be better placed to do so.

Issue of poll cards at a community council by-election (Communities only)

Where a community council election is not held in combination with another election, official poll cards are issued only if the community council in question submits a request to the Returning Officer before 4pm on the 19th day before the day of election for poll cards to be issued. N.B., nevertheless, the Returning Officer must still issue an official poll card to any elector in that community who is registered anonymously.

The Welsh Government considers there would be benefits from requiring poll cards to be issued in all circumstances in terms of increasing voter awareness of the election, but we propose not to change the rule as yet, mindful of the possible cost implications for community councils.

13. Do you agree with this view? What would be the implications (good and bad) of requiring poll cards to be issued in all circumstances for community council elections?

We agree with the view that it would be beneficial for electors to require poll cards to be issued for all elections in terms of increasing voter awareness of the election. It provides for a consistent approach across all polls and enables the Returning Officer to proceed at the earliest opportunity in the production of poll cards for a standalone community council election rather than awaiting instruction up until the nineteenth day before poll. In addition, currently where a late decision is taken by a community council to have poll cards, it limits the effectiveness of providing electors with information on absent vote arrangements and their respective deadlines in sufficient time.

There will however be cost implications for community councils which should be considered by Welsh Government. It may be a consideration to pilot the use of electronic poll cards for such elections where email addresses are held for electors. This could help to mitigate against the additional cost and provide a means of evaluating the benefits for other devolved electoral events.

In addition, consideration needs to be made of the increased likelihood of 'uncontested elections' at community council casual vacancies where only one candidate looks to stand resulting in no poll going ahead. Despatch of poll cards in such a scenario would be ineffective and costly for a community council.

Removal of formula for appointing counting agents (Principals and Communities)

We have simplified the rule about the appointment of counting agents by removing the formula whereby the number counting agents allowed to a candidate must not be less than the number obtained by dividing the number of clerks employed on the counting by the number of candidates. The Welsh Government considers that it should be for the Returning Officer to consider the practicalities of the circumstances and the venue. The requirement that the number of counting agents must be the same for each candidate is retained.

14. Do you agree with the change removing the formula for appointing counting agents?

As part of our [Blueprint for a Modern Electoral Landscape](#) we recommended that consideration needed to be given to who is entitled to attend election verification and count processes.

Removing the formula whereby the number of counting agents allowed to a candidate must not be less than the number obtained by dividing the number of clerks employed to count by the number of candidates is helpful. However, we believe that further consideration needs to be given to extending the Returning Officers ability to invoke 'exceptional circumstances' provision to all those usually entitled to attend.

The challenge for Returning Officers in delivering Covid-19 secure counts in 2021 revolved around all those who are legally entitled to attend verification and counts, not just counting agents. By allowing the Returning Officer to manage, where required, those legally entitled to attend due to exceptional circumstances would fully empower them to consider the practicalities of the circumstances and the venue.

We have also noted that within the draft rules, amendments have been made to the appointment of polling agents. Currently, Rule 27 (3) of The Local Elections (Principal Areas) (England and Wales) Rules 2006 states - *Not more than four polling agents, or such greater number as the Returning Officer may by notice allow, shall be permitted to attend at any particular polling station and if the number of such agents appointed to attend at a particular polling station exceeds that number, the Returning Officer must determine which agents are permitted to attend by lot and only the agents on whom the lot falls shall be deemed to have been duly appointed.*

This provision has been removed from the draft rules and we question why this is the case. By allowing for a restriction of polling agents who can be appointed to attend a particular polling station (in which case only one polling agent may be admitted to a polling station at the same time on behalf of the same candidate) helps to limit the number of people who can legally attend a polling station to ensure it's safe management by the Presiding Officer while still ensuring adequate transparency for candidates. Furthermore, a Returning

Officer is required to notify the Presiding Officer of the names of the polling agents appointed to attend their station. In the absence of restrictions this could potentially result in long lists of names needing to be compiled and supplied to presiding officers after the deadline on the fifth working day prior to the election.

Changes to rules to reflect content of existing prescribed forms (Principals and Communities)

New drafting has been included in certain rules simply to make the wording of the rule consistent with requirements which hitherto have been included only in the related prescribed form. It is not really appropriate for these matters to be apparent only from the forms. The proposed changes do not alter the existing requirements, but will clarify matters by inserting specific references in the relevant rule:

- that in some cases a registration officer may dispense with the need for a signature on the postal voting statement for certain postal voters (see for example Principal Rules 29(3), 55(8)(a) (Sch 1) and 59(3)(a));
- where an elector has an anonymous entry on the register, the poll card must always be sent or delivered in an envelope or other form of covering so as not to disclose that the elector has an anonymous entry (see, for example Principal Rule 32(6)(b))
- to make clear that an elector with an anonymous entry on the register will be given a ballot paper in the polling station only if they are able to show their official poll card to the presiding officer (see for example, Principal Rule 43(3)(a)).

15. Do you agree that the changes are appropriate, and the drafting makes the rules clearer and consistent with the related forms?

We agree that the changes highlighted above are appropriate and the drafting makes the rules clearer and consistent with the related forms.

Companions of a voter with a disability or unable to read: relatives (Principals and Communities)

16. Do you agree that the list of relatives who may act as the companion assisting a voter is expanded to include a “grandparent” and a “grandchild” of the voter?

We support the proposed change to expand the list of relatives who may act as the companion assisting a voter to include grandparent and grandchild of the voter.

We would also ask Welsh Government to consider the inclusion of carers as a person who is eligible to assist the voter. There are currently scenarios where electors only form of assistance is through a care or health worker, but the current legislation would prevent that person from assisting the elector as they are not related and may not be entitled to vote as an elector at the election. By expanding the criteria to include carers would help remove any barriers to those electors solely reliant on the support of their carer.

Modernisation of language and lay-out (Principals and Communities throughout)

17. The language used in the rules and the lay-out has been modernised with a view to making the required actions and procedures clearer and more accessible to officers, candidates, and other readers. Has the clarity been improved? Has anything been left out which needs to be included?

We support the intention to modernise the language in the rules and the lay-out with a view to making actions and procedures clearer and more accessible.

However, we do have concerns that some changes may offer less clarity and initial confusion to administrators and candidates familiar with current rules and terminology. For example, the term 'registration records' are used extensively in Rule 43 (Rule 42 for Community) to encapsulate both register of electors and notices issued under section 13B(3B) or (3D) of the Representation of the People Act 1983. However, the term 'registration records' bring into question what is being referred to. It is defined in rule 41 (7) (Rule 40 (7) for Community) of what copies of 'registration records' means but we do not believe this offers any improvement and provides less clarity than what currently exists.

Prescribed forms (Principals and Communities)

The existing Conduct Rules each include an Appendix with 15 prescribed forms. We consider that in many cases the requirements for the required procedure are sufficiently clearly expressed in the relevant rule, so we propose to prescribe the following forms only: the nomination paper, the front and back of the ballot paper (including the directions as to printing the ballot paper), the form of the postal voting statement and the directions for the guidance for voters. We would not continue to prescribe the following forms: the corresponding number lists, the official poll cards, the certificates of employment and the declarations by a companion of a voter with disabilities. We will review the relevant rules to ensure the requirements about the contents are fully set out in the rule in question.

18. Do you agree with this change?

We agree with this change that enables some forms to no longer be prescribed in the appendix of the rules. We believe that where sufficient detail is provided in the rules in relation to the requirements of the contents of forms, it is preferable to allow the Returning Officer discretion to determine the most appropriate layout for their area. We stress that Welsh Government should work in close liaison with the Electoral Commission in ensuring sufficient guidance is provided to assist Returning Officers in determining the requirements of forms no longer prescribed.

In relation to the forms that have been prescribed, we have the following concerns:

- Appendix 1 provides for the nomination paper. On the existing consent to nomination there is a requirement to provide a candidate's date of birth. The requirement to provide the candidate's date of birth is no longer present on the nomination paper and we question why this has been removed. We acknowledge that the Returning Officer is to accept nominations on face value and is not to investigate the validity of any information provided on a nomination. However, the inclusion of a date of birth provided a useful check of understanding if the candidate was eligible and reminding the candidate of the consequences of standing if they were ineligible. Without a date of birth present, it may potentially give rise to challenges after the election if an ineligible candidate was to stand.
- In relation to the candidate's statement of party membership on Appendix 1, we believe the format for providing the dates that a person was a member of another registered political party could be clearer. It currently provides one column stating, 'the times during the 12 months period when you were a member'. We believe it would be clearer for candidates and allow for consistency if it stated date (in format dd mm yyyy) you stopped being a member of registered political party within the 12-month period.

- Appendix 3 provides for the corresponding number list. We believe that the elector number for Corresponding List: Part 1 has been wrongly omitted and should be included.
- Appendix 4 provides for the postal voting statement. Point 6 of the instructions for marking the ballot paper and completing the postal vote statement states that 'it is preferable to return it straightaway'. We do not believe the inclusion of 'it is preferable to' should be present and the existing wording return it straightaway should remain. The same applies to wording utilised on the postal poll card.
- Appendix 5 provides for poll cards. On the back of the poll card, it states 'do not put any other mark on the back of the ballot paper or your vote may not be counted'. We question why the word back has been included as it implies that placing any other mark on the back of the ballot paper could invalidate a ballot paper but wouldn't if it was on the front of the ballot paper. We believe that the words 'the back of' should be omitted to prevent any confusion to electors.
- Information provided on emergency proxies on existing poll cards provides comprehensive information stating the time an emergency proxy is effective from, the reasons for an emergency proxy and the deadline. This has been replaced by 'In certain circumstances it may be possible to apply to vote by proxy after [insert the deadline date]'. We believe this provides insufficient information for the elector and should instead present the detail currently prescribed.

Furthermore, our [Blueprint for a Modern Electoral Landscape](#) called for the design of ballot papers to include numbers against each candidate and show the name of the electoral area on the front. We would encourage Welsh Government to consider this suggestion for inclusion in the draft rules for all local government elections to assist electors with visual impairments using support devices. However, if a single transferrable vote system is introduced in Wales by a local authority, Welsh Government would need to consider if the inclusion of numbers against each candidate on the ballot paper would prove problematic.

Community rules only – Introductory Rule 5 (signatures for request for election to fill a casual vacancy)

Introductory Rule 5 states that in the event of a casual vacancy on a community council, if 10 local government electors for the community / community ward in question submit a request to the relevant Returning Officer for an election (“a by-election”), a by-election must take place, subject to certain other requirements set out in introductory Rule 5.

The Welsh Government understands that some Returning Officers consider an email setting out the names of the 10 electors is sufficient to meet the request requirement. We do not share this view; the Welsh Government interprets the intention of the rule is that such a request should be *signed* by each of the 10 electors (whether submitted manually or electronically). We are not clear how many Returning Officers share the view that an email is sufficient, so we have not yet changed the rule, but if clarification is needed, we shall do so to ensure it is clear that a request is indeed endorsed by the persons whose names support the request.

We have no proposals as yet to change introductory Rule 5 to make the calling of a by-election automatic.

19. Do you agree with the Welsh Government’s interpretation of the current rule? If so, is amendment needed to allow the request to be submitted electronically and to provide assurance to the Returning Officer?

Question 19 refers to election requests being submitted to the relevant Returning Officer for an election. Rule 5 of The Local Elections (Parishes and Communities) (England and Wales) Rules 2006 does not provide for election requests to be submitted to the Returning Officer, but the proper officer of council in which the community is situated.

The AEA’s long held view that has been provided to our members is as follows:

[Section 5 \(2\) of the Local Elections \(Parishes and Communities\) \(England and Wales\) Rules 2006](#) stipulates that a request should be made by 10 persons who are named in the register in use at the time of the request – it is however silent on whether signatures are required on the request or whether it needs to be provided physically in writing.

It is possible that all ten electors could arrive either together or over a period of time at the proper officer’s office to request the election verbally which would satisfy the requirements.

While it is good practice to encourage a written request including name, address, and signature of each elector– it is not required by law.

Thought should be given to how to validate any emailed or faxed requests and the persons making it particularly if the request does not include a signature.

It would be beneficial to provide further clarity within the legislation that electronic submission is permitted but needs to consider how emailed or faxed requests are validated by the Returning Officer.

Emergency Proxy's for reasons of COVID

For the Senedd election in May 2021 and any local by-elections taking place up to November 2021, a further reason for making an application to vote by an emergency proxy was introduced. Electors who were not able to vote themselves because they were isolating for reasons of COVID or following Government advice were allowed to appoint an emergency proxy up to 5:00pm on the day of the election. We are giving consideration to whether the public health situation would indicate this provision should be extended further to allow emergency proxy for the reasons set out above for the 2021 local elections and any by-elections up to November 2022.

20. We would be grateful for views of how the process of applying and administering an emergency proxy of this sort may be improved.

As part of the [Blueprint for a Modern Electoral Landscape](#), we stated that there is a need for a full review of ordinary proxy applications and the requirement for attestation. There is no facility for an appointed proxy to be changed or for an emergency proxy to be appointed in the case of an elector having to attend a funeral on polling day or to go away to care for a relative who has suddenly been taken ill. Emergency proxy applications are only available for medical, employment or Covid-19 reasons arising after the deadline for ordinary proxy applications.

Permitting long-term proxies for certain reasons only makes sense when there are no restrictions for postal votes. Covid-19 saw a change in legislation to allow for emergency proxy applications without the requirement of medical attestation and for an already appointed proxy to be changed. While these legislative changes have been made specifically for Covid-19 there are other areas which would benefit from similar arrangements.

Therefore, we urge Welsh Government to undertake a full review of ordinary proxy applications and the need for attestation. We believe legislative changes should be made to allow for an appointed proxy to be changed and for the circumstances and criteria for emergency proxy applications to be expanded to include other unforeseen circumstances such as an elector having to attend a funeral on polling day or having to go away to care for a relative who has suddenly been taken ill. It should also be considered as to whether emergency proxy provision could apply to electors who have not received their postal vote due to a failure by the Electoral Registration Officer or Returning Officer. Such changes would help to ensure electors are given every opportunity to participate in an election regardless of the circumstances they may find themselves in on polling day.

With regard to extending the current emergency proxy provisions for reasons of Covid-19 beyond the current date of November 2021, we believe it would be for Welsh Government to determine the most appropriate actions based on the predicted public health situation in Wales. However, corresponding legislation introduced by UK Government to allow for emergency proxies for Covid-19

reasons for UK Parliamentary and Police and Crime Commissioner elections are in place for polls where the notice of election was published on or before 28 February 2022. For the sake of consistency, we believe that Welsh Government should at least look to extend the provision until the same date to aid both administrators and electors.

21. We would like to know your views on the effects that The Local Elections (Principal Areas) (Wales) Rules 2021 and The Local Elections (Communities) (Wales) Rules 2021 would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

The AEA supports the equal use of both the Welsh and English languages as part of the electoral process and would encourage Welsh Government to liaise with the Welsh Language Commissioner as well as other relevant stakeholder groups such as the Welsh Legislation Advisory Group, Wales Electoral Co-Ordination Board and Wales Electoral Practitioners Working Group to provide expertise in relation to this specific area.

22. Please also explain how you believe the draft Local Elections (Principal Areas) (Wales) Rules 2021 and the draft Local Elections (Communities) (Wales) Rules 2021 could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating Welsh language no less favourably than the English language.

The AEA supports the equal use of both the Welsh and English languages as part of the electoral process and would encourage Welsh Government to liaise with the Welsh Language Commissioner as well as other relevant stakeholder groups such as the Welsh Legislation Advisory Group, Wales Electoral Co-Ordination Board and Wales Electoral Practitioners Working Group to provide expertise in relation to this specific area.

23. We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

Please enter here:

We have several queries and some concerns related to changes that have been made to the draft rules which have been noted below:

- In Rule 11 (3) (Rule 10 (3) for Community), the grounds on which the Returning Officer can find a nomination paper invalid have been expanded to include where the statement of party membership included in the nomination paper does not comply with Rule 8, that the candidate's home address form does not comply with Rule 9(2) to (7) and the nomination is not signed by the candidate or that the candidate's signature has not be attested, as required by Rule 5 (5). We believe further clarification is needed to assist Returning Officers in determining the validity of nominations based on these new grounds. Furthermore, Rule 17 (2)(c) (Rule 16 (2) (c) for Community) states that a Returning Officer can correct errors as to the information given in accordance with Rule 9(7). We question whether this is contradictory given that in one rule the Returning Officer can find a nomination paper invalid as the candidate home address form does not comply with Rule 9(7) but in another, they can also correct an error that relates to Rule 9(7). We believe that to allow a consistent approach in the determining of nominations across Wales, the ability to invalidate a nomination should not also be able to be corrected which leaves scope for differing interpretation and practice.
- Rule 16 (Rule 15 for Community) enables the Returning Officer to arrange for any of the particulars of a candidate to be shown on the statement of persons nominated to be amended or added to, to reduce confusion where there are two or more candidates with the same name, have asked for their home address not to be made public and reside in the same electoral area. We believe that further clarification is needed to establish what can be added or amended to a candidate's particulars to differentiate candidates. Rule 16 (3) (Rule 15 (3) for Community) does state that the Returning Officer must have regard to any guidance given by the Electoral Commission for the purposes of this rule. However, it needs to be established now if the Electoral Commission intend on producing comprehensive guidance and examples of how this rule can be applied in practice to prevent the Returning Officer being opened up to challenge.
- Rule 20 (Rule 19 for Community) provides for the adjournment of nomination proceedings in the case of a riot. Rule 20 (3) (Rule 19 (3) for Community) states that if the day on which proceedings are abandoned is the last day for the delivery of nomination papers, the proceedings must be resumed on the next day (as if it were instead

the last day for the delivery of nominations). If the day following the original last day for the delivery of nominations becomes the last day for the delivery of nominations, we question the impact on the rest of the election timetable. There do not appear to be any correlating changes to the election timetable as a result of this rule, therefore are we to assume that the adjournment pushes all key dates, within the timetable, back by one day resulting in polling day taking place on a Friday? If this is the case, the impact on changing the date of polling day at such late notice needs to be reconsidered and the administrative burden and viability of such a rule fully considered.

- Rule 24 (Rule 23 for Community) provides for the corresponding number list. Rule 24 (3) (Rule 23 (3) for Community) states that part 1 must contain the numbers and unique identifying marks of all postal ballot papers. Previously, in accordance with Rule 17 of The Local Elections (Principal Areas) (England and Wales) Rules 2006, the corresponding list contained the ballot paper number, unique identifying mark, and the corresponding elector number the ballot paper had been issued to. We question why the elector number has been removed from the corresponding number list and how in the event of an election petition it would be possible to determine who a particular ballot paper was allocated to.
- Rule 32 (4) (c) provides for the addition of the number of councillors to be elected for the electoral ward on the poll card. We do not believe this should be the case as it presents practical challenges where combined poll cards are issued.
- Rule 33 (6) (Rule 32 (8) for Community) provides for the enlarged sample copy of the ballot paper that must be displayed in each polling station, the option of being translated into such languages other than English and Welsh as the Returning Officer considers appropriate. While we acknowledge this provides the option to the Returning Officer, we question the appropriateness of such a rule given that the actual ballot paper cannot be translated into alternative languages
- Rule 33 (10) (Rule 33 (12) for Community) amends rule 26 (8) of The Local Elections (Principal Areas) (England and Wales) Rules 2006 which currently requires every compartment of every polling station exhibits a notice stating Vote for no more than ... candidates or Vote for one candidate only. Put no other marks on your ballot paper, or your vote may not be counted. Instead, the requirement is now in accordance with Rule 33 (10) (a) (Rule 33 (12) (a) for Community) to display the directions for the guidance of voters inside each voting compartment in the polling station. We question why this amendment has been made and question whether it is to the voters benefit for the guidance for voters to be displayed in the voting compartment. The guidance for voter's notice contains a

large volume of text whereby points 3 and 4 on the notice relating to how many candidates can be voted for will not be as clear as it previously was.

- Rule 42 (a) (Rule 41 (a) for Community) states that a person can be prevented from voting when a candidate or a candidate's election agent or polling agent makes a written declaration that they have reasonable cause to believe that the person has committed the offence of personation. Previously rule 34 (a) of The Local Elections (Principal Areas) (England and Wales) Rules 2006 stated that a candidate or his election or polling agent declares that he has a reasonable cause to believe that the person has committed the offence of personation. We question why the rule has been modified to stipulate a written declaration is required. In practice if an elector is suspected of personation by a candidate or one of their agents, there would not be sufficient time to make a written declaration prior to the offence emerging and the elector voting. Furthermore, this Rule now seems to imply that a candidate, candidate's election agent or polling agent can prevent a person from voting if they suspect them of personation. Currently, if such a person challenges a voter, they cannot prevent the person from voting provided they answer the prescribed questions correctly. We believe this should continue to be the case.
- Rule 52 (Rule 51 for Community) does not contain any amendment to the existing rule, but we question what is envisaged by the wording – the presiding officer must place each of the following in separate packets, sealed using the presiding officer's seal. What constitutes the presiding officer's seal? For example, are they required to seal all packets even paper envelopes with a seal?
- Rule 55 relates to the verification and counting of ballot papers. However, it omits a previous requirement that currently exists in rule 45 (6) of The Local Elections (Principal Areas) (England and Wales) Rules 2006. Currently it states that the Returning Officer must keep the ballot papers with their face upwards, this no longer appears in the draft rules. We believe the rules should continue to state that need for ballot papers to be verified and counted face upwards as is the case for all other election types. Furthermore, in the draft community rules it omits the need to count the ballot papers as part of the verification process, with rule 55 (2) stating the Returning Officer must in the presence of the counting agents, open each ballot box, take out the ballot papers and record the number of ballot papers. In contrast rule 55 (2) of the draft principal area rules states open each ballot box, take out the ballot papers, count them and record the number of ballot papers.
- Rule 55 (6) (Rule 55 (8) for Community) introduces and implies that postal ballot papers cannot be counted until all ballot paper accounts have been verified. We question why this has been

included and the merits of preventing a Returning Officer verifying all returned postal ballot papers received prior to 10pm on polling day whilst waiting for the ballot boxes from polling stations to be received. We do not believe there should be restrictions on when certain types of ballot papers can be verified and in what order after 10pm on polling day.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here: